

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 686

Introduced by Senator Jackson

February 22, 2013

An act to *amend Section 11713.18 of, and to add Section 11713.27* to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 686, as amended, Jackson. ~~Vehicle dealers: safety recalls.~~
Vehicles: vehicle dealers.

~~Existing~~

(1) Existing law provides that it is a violation of the Vehicle Code for the holder of any dealer's license issued as specified to advertise for sale or sell a used vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies the vehicle has been certified to meet the terms of a used vehicle certification program if any of specified provisions apply, including, but not limited to, the dealer knows or should have known that the vehicle has sustained frame damage, and the dealer disclaims any warranties of merchantability on the vehicle. Under existing law, a violation of these provisions is a crime.

The bill would additionally require that if the dealer knows or should have known that the vehicle is subject to a manufacturer's safety recall, it would be a violation of the Vehicle Code.

(2) Existing law provides that it is unlawful for a lessor-retailer to sell a vehicle without a vehicle dealer license or temporary permit. Existing law prohibits a licensed dealer from engaging in certain practices, including, among others, making an untrue or misleading statement indicating that a vehicle is equipped with all the

factory-installed optional equipment the manufacturer offers. Under existing law, a violation of these provisions is a crime.

This bill would additionally prohibit a motor vehicle dealer from selling, leasing, displaying, renting, *loaning*, or offering for sale at retail a new or used vehicle, as specified, if the vehicle has a defect that is subject to a manufacturer's *safety* recall, unless the repairs required to correct the defect have been performed on the vehicle. By expanding the scope of a crime, this bill would impose a state-mandated local program. The bill would also make a violation of these provisions actionable under the Consumers Legal Remedies Act and the Unfair Competition Law, and as false advertising.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11713.18 of the Vehicle Code is amended
2 to read:

3 11713.18. (a) It is a violation of this code for the holder of
4 any dealer's license issued under this article to advertise for sale
5 or sell a used vehicle as "certified" or use any similar descriptive
6 term in the advertisement or the sale of a used vehicle that implies
7 the vehicle has been certified to meet the terms of a used vehicle
8 certification program if any of the following apply:

9 (1) The dealer knows or should have known that the odometer
10 on the vehicle does not indicate actual mileage, has been rolled
11 back or otherwise altered to show fewer miles, or replaced with
12 an odometer showing fewer miles than actually driven.

13 (2) The dealer knows or should have known that the vehicle
14 was reacquired by the vehicle's manufacturer or a dealer pursuant
15 to state or federal warranty laws.

16 (3) The title to the vehicle has been inscribed with the notation
17 "Lemon Law Buyback," "manufacturer repurchase," "salvage,"
18 "junk," "nonrepairable," "flood," or similar title designation
19 required by this state or another state.

(4) The vehicle has sustained damage in an impact, fire, or flood, that after repair prior to sale substantially impairs the use or safety of the vehicle.

(5) The dealer knows or should have known that the vehicle has sustained frame damage.

(6) Prior to sale, the dealer fails to provide the buyer with a completed inspection report indicating all the components inspected.

(7) The dealer disclaims any warranties of merchantability on the vehicle.

(8) The vehicle is sold “AS IS.”

(9) The term “certified” or any similar descriptive term is used in any manner that is untrue or misleading or that would cause any advertisement to be in violation of subdivision (a) of Section 11713 of this code or Section 17200 or 17500 of the Business and Professions Code.

(10) The dealer knows or should have known that the vehicle is subject to a manufacturer’s safety recall.

(b) A violation of this section is actionable under the Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code), the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), Section 17500 of the Business and Professions Code, or any other applicable state or federal law. The rights and remedies provided by this section are cumulative and shall not be construed as restricting any right or remedy that is otherwise available.

(c) This section does not abrogate or limit any disclosure obligation imposed by any other law.

(d) This section does not apply to the advertisement or sale of a used motorcycle or a used off-highway motor vehicle subject to identification under Section 38010.

SECTION 1.

SEC. 2. Section 11713.27 is added to the Vehicle Code, to read:

11713.27. (a) A dealer issued a license under this article shall not sell, lease, display, rent, *loan*, or offer for sale at retail a new vehicle, as defined in Section 430 and subject to registration under this code, or a used vehicle, as defined in Section 655 and subject to registration under this code, if the vehicle has a defect that is

1 subject to a manufacturer's *safety* recall, unless the repairs required
2 to correct the defect have been performed on the vehicle.

3 (b) A violation of this section is actionable under the Consumers
4 Legal Remedies Act (Title 1.5 (commencing with Section 1750)
5 of Part 4 of Division 3 of the Civil Code), the Unfair Competition
6 Law (Chapter 5 (commencing with Section 17200) of Part 2 of
7 Division 7 of the Business and Professions Code), Section 17500
8 of the Business and Professions Code, or any other applicable state
9 or federal law. The rights and remedies provided by this section
10 are cumulative and shall not be construed as restricting any right
11 or remedy that is otherwise available.

12 ~~SEC. 2.~~

13 *SEC. 3.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.